

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

AARON W. COATS,

Plaintiff,

vs.

CRISWELL KENNEDY,

Defendant.

NO. 12-CV-366-CI

REPORT AND RECOMMENDATION TO
DISMISS COMPLAINT WITHOUT
PREJUDICE

BEFORE THE COURT on Report and Recommendation is Plaintiff Aaron W. Coats' Motion to Voluntarily Dismiss Complaint pursuant to Fed. R. Civ. P. 41(a). Plaintiff, a prisoner housed at the Washington State Correction Center, is proceeding *pro se* and *in forma pauperis*; Defendants have not been served in this action. Accordingly, **IT IS RECOMMENDED** Plaintiff's Motion, ECF No. 13, be **GRANTED** and the Complaint be **DISMISSED WITHOUT PREJUDICE**.

Although granted the opportunity to do so, Plaintiff did not file a separate Motion and Affidavit to waive the remaining balance of the filing fee as directed. Therefore, Plaintiff still is obliged to pay the full filing fee for this action pursuant to 28 U.S.C. § 1915(b).

OBJECTIONS

Any party may object to a magistrate judge's proposed findings, recommendations or report within fourteen (14) days following service with a copy thereof. Such party shall file written objections with the
REPORT AND RECOMMENDATION TO DISMISS COMPLAINT WITHOUT PREJUDICE -- 1

1 Clerk of the Court and serve objections on all parties, specifically
2 identifying the portions to which objection is being made, and the basis
3 therefor. Any response to the objection shall be filed within fourteen
4 (14) days after receipt of the objection. Attention is directed to FED.
5 R. Civ. P. 6(e), which adds additional time after certain kinds of
6 service.

7 A district judge will make a de novo determination of those
8 portions to which objection is made and may accept, reject, or modify
9 the magistrate judge's determination. The judge need not conduct a new
10 hearing or hear arguments and may consider the magistrate judge's record
11 and make an independent determination thereon. The judge may, but is
12 not required to, accept or consider additional evidence, or may recommit
13 the matter to the magistrate judge with instructions. *United States v.*
14 *Howell*, 231 F.3d 615, 621 (9th Cir. 2000); 28 U.S.C. § 636(b)(1)(B) and
15 (C), FED. R. CIV. P. 72; LMR 4, Local Rules for the Eastern District of
16 Washington.

17 A magistrate judge's recommendation cannot be appealed to a court
18 of appeals; only the district judge's order or judgment can be appealed.

19 The District Court Executive is directed to enter this Report and
20 Recommendation, forward a copy to Plaintiff, and SET A CASE MANAGEMENT
21 DEADLINE ACCORDINGLY.

22 DATED July 31, 2012.

23
24 S/ CYNTHIA IMBROGNO
25 UNITED STATES MAGISTRATE JUDGE
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